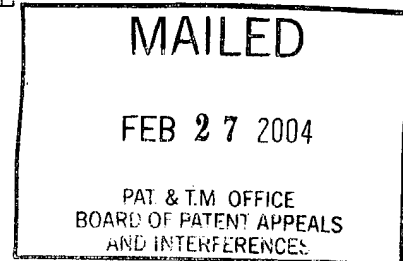


UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES



Ex parte GIOVANNI CHIAVAROTTI, JEAN CONSTANTI,
and GIUSEPPE VONO

Application No. 09/707,885

ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

This application was electronically received at the Board of Patent Appeals and Interferences on February 9, 2004. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being electronically returned to the examiner. The matters requiring attention prior to docketing are identified below.

On February 2, 2004, the examiner responded to the reply brief filed on November 7, 2003. The response contains additional arguments which is improper. See § 1208.03 of the Manual of Patent Examining Procedure (8th ed., Aug. 2001) which states:

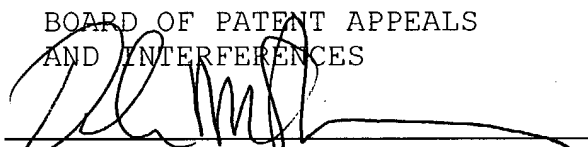
Application No. 09/707,885

[A]ppellant may file a reply brief as a matter of right within 2 months from the mailing date of the examiner's answer. . . . The primary must then either: (A) acknowledge receipt and entry of the reply brief by using form paragraph 12.47 on form PTOL-90; or (B) reopen prosecution to respond to the reply brief. See MPEP § 1208.02.

Accordingly, it is

ORDERED that this application be electronically returned to the examiner for: 1) proper response to the reply brief filed on November 7, 2003; and 2) for such further action as may be appropriate.

It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of this appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES
By: 
Dale M. Shaw
Program and Resource Administrator
(703) 308-9797

cc: Wenderoth, Lind & Ponack, LLP
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DMS/tdl/lc
RA04-0279